

Federal Maritime Commission

§ 510.11

(p) *Reduced forwarding fees* means charges to a principal for forwarding services that are below the licensee's usual charges for such services.

(q) *Shipment* means all of the cargo carried under the terms of a single bill of lading.

(r) *Shipper* means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made.

(s) *Small shipment* refers to a single shipment sent by one consignor to one consignee on one bill of lading which does not exceed the underlying common carrier's minimum charge rule.

(t) *Special contract* is a contract for freight forwarding services which provides for a periodic lump sum fee.

(u) *United States* includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and all other United States territories and possessions.

§ 510.3 License; when required.

Except as otherwise provided in this part, a person must hold a valid ocean freight forwarder license in order to perform freight forwarding services, and, except as provided in § 510.4, no person shall perform, or hold out to perform, such services unless such person holds a valid license issued by the Commission to engage in such business. A separate license is required for each branch office that is separately incorporated.

§ 510.4 License; when not required.

A license is not required in the following circumstances:

(a) *Shipper*. Any person whose primary business is the sale of merchandise may, without a license, dispatch and perform freight forwarding services on behalf of its own shipments, or on behalf of shipments or consolidated shipments of a parent, subsidiary, affiliate, or associated company. Such person shall not receive compensation from the common carrier for any services rendered in connection with such shipments.

(b) *Employee or branch office of licensed forwarder*. An individual employee or unincorporated branch office of a licensed ocean freight forwarder is

not required to be licensed in order to act solely for such licensee, but each licensed ocean freight forwarder will be held strictly responsible hereunder for the acts or omissions of any of its employees rendered in connection with the conduct of the business.

(c) *Common carrier*. A common carrier, or agent thereof, may perform ocean freight forwarding services without a license only with respect to cargo carried under such carrier's own bill of lading. Charges for such forwarding services shall be assessed in conformance with the carrier's published tariffs on file with the Commission.

(d) *Ocean freight brokers*. An ocean freight broker is not required to be licensed to perform those services specified in § 510.2(m).

Subpart B—Eligibility and Procedure for Licensing; Bond Requirements

§ 510.11 Basic requirements for licensing; eligibility.

(a) *Necessary qualifications*. To be eligible for an ocean freight forwarder's license, the applicant must demonstrate to the Commission that:

(1) It possesses the necessary experience, that is, its qualifying individual has a minimum of three (3) years experience in ocean freight forwarding duties in the United States, and the necessary character to render forwarding services; and

(2) It has obtained and filed with the Commission a valid surety bond in conformance with § 510.14.

(b) *Qualifying individual*. The following individuals must qualify the applicant for a license:

(1) *Sole proprietorship*— The applicant sole proprietor.

(2) *Partnership*— At least one of the active managing partners, but all partners must execute the application.

(3) *Corporation*— At least one of the active corporate officers.

(c) *Affiliates of forwarders*. An independently qualified applicant may be granted a separate license to carry on the business of forwarding even though it is associated with, under common control with, or otherwise related to another ocean freight forwarder through stock ownership or common

directors or officers, if such applicant submits: (1) A separate application and fee, and (2) a valid surety bond in the form and amount prescribed under § 510.14. The proprietor, partner or officer who is the qualifying individual of one active licensee shall not also be designated the qualifying proprietor, partner or officer of an applicant for another ocean freight forwarder license.

(d) *Common carrier.* A common carrier or agent thereof which meets the requirements of this part may be licensed to dispatch shipments moving on other than such carrier's own bill of lading subject to the provisions of § 510.23(g).

[49 FR 36297, Sept. 14, 1984; 49 FR 38544, Oct. 1, 1984]

§ 510.12 Application for license.

(a) *Application and forms.* (1) Any person who wishes to obtain a license to carry on the business of forwarding shall submit, in duplicate, to the Director of the Commission's Bureau of Tariffs, a completed application Form FMC-18 Rev. (*Application for a License as an Ocean Freight Forwarder*) and a completed anti-rebate certification in the format prescribed under § 510.25. Copies of Form FMC-18 Rev. may be obtained from the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, DC 20573, or from any of the Commission's offices at other locations. Notice of filing of such application shall be published in the FEDERAL REGISTER and shall state the name and address of the applicant. If the applicant is a corporation or partnership, the names of the officers or partners thereof shall be published.

(2) An individual who is applying for a license in his or her own name must complete the following certification.

I, _____ (Name) _____, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or State offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to 21 U.S.C. 862.

(b) *Fee.* The application shall be accompanied by a money order, certified check or cashier's check in the amount

of \$687 made payable to the *Federal Maritime Commission*.

(c) *Rejection.* Any application which appears upon its face to be incomplete or to indicate that the applicant fails to meet the licensing requirements of the Shipping Act of 1984, or the Commission's regulations, shall be returned by certified U.S. mail to the applicant without further processing, together with an explanation of the reason(s) for rejection, and the application fee shall be refunded in full. All other applications will be assigned an application number, and each applicant will be notified of the number assigned to its application. Persons who have had their applications returned may reapply for a license at any time thereafter by submitting a new application, together with the full application fee.

(d) *Investigation.* Each applicant shall be investigated in accordance with § 510.13.

(e) *Changes in fact.* Each applicant and each licensee shall submit to the Commission, in duplicate, an amended Form FMC-18 Rev. advising of any changes in the facts submitted in the original application, within thirty (30) days after such change(s) occur. In the case of an application for a license, any unreported change may delay the processing and investigation of the application and may result in rejection or denial of the application. No fee is required when reporting changes to an application for initial license under this section.

[49 FR 36297, Sept. 14, 1984, as amended at 55 FR 42194, Oct. 18, 1990; 59 FR 59171, Nov. 16, 1994; 62 FR 6132, Feb. 11, 1997]

§ 510.13 Investigation of applicants.

The Commission shall conduct an investigation of the applicant's qualifications for a license. Such investigations may address:

- (a) The accuracy of the information submitted in the application;
- (b) The integrity and financial responsibility of the applicant;
- (c) The character of the applicant and its qualifying individual; and
- (d) The length and nature of the qualifying individual's experience in handling freight forwarding duties.